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due to OFCCP's own failure to conduct any further investigation, OFCCP does not have a full picture of the documents "already in" Oracle's position and this objection is purely speculation.

General Objection No. 6. We have previously addressed OFCCP's failure to provide responses to Interrogatory Nos. 26 to 88. *See* Oracle's prior meet and confer letter dated March 9. We discussed this on March 15, and on March 20, we received your authority for your position. OFCCP's continued reliance on the interrogatory limitations in Fed.R.Civ.P. 33 is without merit. As Oracle explained, under 41 C.F.R. 60-30.1 the Federal Rules apply only in instances where the OFCCP Rules are silent. Judges' Deskbook: OFCCP § (VI)(A), www.oalj.dol.gov/public/ofccp/references/reference_works/ofccpdeskbook.htm#ofccp_chap_6 (May 2, 2011). Here, OFCCP's rules expressly provide for written discovery by means of interrogatories and place no numerical limit on the number that may be propounded. Thus, Fed.R.Civ.P. 33, and the limits placed on interrogatories therein, do not apply. 41 C.F.R. 60-30.9(a). Judges have compelled responses to more than 25 interrogatories in lawsuits litigated by OFCCP. *See, e.g., In the Matter of: U.S. Dep't of Labor, Office of Fed. Contract Compliance Programs*, 96-OF-2 (Apr. 27, 1998) (granting motion to compel responses to two sets of interrogatories, comprising more than 34 interrogatories). In addition, the position taken in the ALJ Deskbook is that the federal rules interrogatory limit does not apply. Judges' Deskbook: OFCCP § (VI)(A), www.oalj.dol.gov/public/ofccp/references/reference_works/ofccpdeskbook.htm#ofccp_chap_6 (May 2, 2011).

The Agency relies on the unpublished ALJ decision in *OFCCP v. B&H Foto & Electronics Corp.*, 2016 OFC-0004 (February 1, 2017) as authority for the proposition that the federal limit applies to OFCCP cases. As an initial matter, OFCCP's present position is clearly disingenuous as it argued in B&H that the federal rules limit did not apply. Also, close review of the decision and the facts described by the ALJ reveal that OFCCP misstates its holding. The order states that the Respondent did not have to provide "additional responses" to OFCCP's interrogatories as it had already provided "far more" than the federal rules limit. This means either (1) the Respondent *did* respond to more than the limit of 25 and the judge ruled that it did not have to provide more detailed responses, or (2) that OFCCP propounded more than the limit and was seeking responses to a number greater than the 25 that had already been propounded. In either event, the judge's decision hardly sets forth a clear rule that any interrogatories over 25 is improper. Indeed, the judge's use of the term "far more" strongly indicates that the judge believed that OFCCP's requests, especially in light of its pre-suit investigatory responsibilities, were not reasonable. When considered in light of the definitive statement in the OFCCP ALJ's Deskbook, OFCCP's position is not sustainable. As such, OFCCP must immediately provide substantive responses to Interrogatory Nos. 26-88.

The broad deficiencies above permeate OFCCP's objections. Oracle requests that the Agency supplement its responses to withdraw these objections on legal and procedural grounds.



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Interrogatory Responses

Factual deficiencies in response. OFCCP's responses provide little to no facts despite the fact that the Agency has already conducted a lengthy investigation, issued a Notice of Violation (NOV) and Show Cause Notice (SCN), and purportedly complied with its significant enforcement prerequisites. The Agency has provided little detail regarding its investigation, what facts underlie its violation findings, how it conducted its statistical findings, who it talked to during the investigation, and other facts that should clearly be at the Agency's fingertips.

The lack of facts here is not surprising given that the clear intention of the Agency was to ignore its duty to conduct an appropriate investigation, stonewall any attempts by Oracle to gather facts related to its factual determinations, and then attempt to use the discovery proceedings to continue its investigation. Indeed, OFCCP essentially admits this. In response to Interrogatory Nos. 2, 5, 7-20, 24, and 25, the Agency either objects on the basis that the request is premature because the Agency is seeking additional discovery or admits that it does not have sufficient information to respond to the Interrogatory based on its poor investigation.

Regardless of the reasoning, what is clear is that OFCCP completely ignored the tools available to the Agency if it truly determined that Oracle withheld relevant documents. The regulations at 41 C.F.R. § 60-1.26 (a)(1)(vii) provide that OFCCP has the ability to file a claim for denial of access if it determined that it did not have sufficient information during its compliance review. Further, the FCCM clearly requires that the Agency file denial of access claims should it determine that it does not have sufficient information to complete its investigation and issue complete findings. FCCM 2O. ("If the contractor refuses to provide the requested data or information or does not allow a follow up onsite visit, the CO will prepare an SCN for denial of access.") Not only does the SCN route provide the Agency with the appropriate manner to obtain documents it believes is necessary to conduct a full investigation, but the administrative procedures allow the Agency to do so on an *expedited* basis. 41 C.F.R. § 60-30.36. OFCCP, however, in its rush to bring this matter to enforcement, completely ignored its obligation to obtain information through this proper channel.

Based on the above and as detailed in response to each of the Interrogatory responses, please supplement your responses to provide the full array of facts meeting the Agency's obligation to respond to the Interrogatories fully. In the alternative, please amend the Amended Complaint to withdraw all allegations where the Agency does not have factual support.

Incorporation of Interrogatories by Reference. The OFCCP procedural rules require that parties respond to interrogatories "separately and fully in writing." 41 C.F.R. 60-30.9(a). Under the identical language of the Fed.R.Civ.P 33(b)(1), it is improper to refer to a response to another interrogatory unless it seeks information identical to the original interrogatory. *U.S. ex rel. O'Connell v. Chapman Univ.*, 245



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F.R.D. 646 (C.D. Cal. 2007). Further, "it is well established that 'an answer to an interrogatory 'must be responsive to the question. It should be complete in itself and should not refer to the pleadings, or to depositions or other documents, or to other interrogatories, at least where such references make it impossible to determine whether an adequate answer has been given without an elaborate comparison of answers.'" *Former S'holders of Cardiospectra, Inc. v. Volcano Corp.*, No. 12-cv-1535-WHO, 2013 U.S. Dist. LEXIS 144136, at *7-8 (N.D. Cal. Oct. 4, 2013). In numerous responses, OFCCP has attempted to incorporate by reference other interrogatories as well as the NOV and the Amended Complaint. OFCCP's actions violate clear authority to respond to Interrogatories fully and, on that basis, OFCCP must revise those interrogatories to comply with the procedural rules.

Interrogatory Response No. 2

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. OFCCP objects to Interrogatory No. 2 on the grounds that it seeks information beyond the scope of the claims and defenses in this matter. This objection has no basis. OFCCP's position is belied by the face of the Amended Complaint in which OFCCP alleges that it conducted a compliance review. Amended Complaint, paragraph 6. As such, Interrogatory No. 2's request for facts related to the compliance review is clearly within the scope of discovery. Second, Oracle's affirmative defenses Nos. 10 and 24-26 clearly allege that OFCCP's Amended Complaint claims fail because the Agency's actions during its compliance audit violated Oracle's procedural due process rights and failed to follow the Agency's regulations and policy manuals. As such, the Agency's compliance review steps are clearly relevant to Oracle's defense of this matter. Please supplement your response to withdraw this objection and provide any and all information withheld based on this objection.

OFCCP further objects to this Interrogatory because it is overbroad and burdensome as seeking the identity of "each and every fact, however minor and all data that may related to the case." OFCCP's obligation is to provide facts in its possession or control in response to this Interrogatory. OFCCP's speculation as to what facts are "minor" does not absolve it of its obligations to respond fully to the Interrogatory. Please supplement your response to withdraw this objection and provide all information withheld based on this objection. To the extent that the Agency continues to maintain this objection, please detail the burden associated with providing this information, including the cost and time associated with providing the information.

Similarly, OFCCP objects to this Interrogatory as overbroad and burdensome in that it seeks "every step taken [during the compliance evaluation]." This objection is baseless as OFCCP has likely logged all of its contacts and investigative steps, and providing facts related to those steps is readily at the Agency's fingertips. Please withdraw this inappropriate objection and provide all information withheld on the basis of this objection. If OFCCP continues to maintain this objection, please detail



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the burden associated with providing this information, including the cost and time associated with providing the information.

Turning to the response, OFCCP states that it "obtained and analyzed any complaints filed against Oracle through the Equal Employment Opportunity Commission (EEOC) and the State and/or Local Fair Employment Practice (FEP) agency." During the compliance review, OFCCP stated that it did not have any EEOC complaints filed against Oracle. To the extent OFCCP has information related to such complaints, please provide all facts related to the complaints, including who filed the complaints, the specific allegations in the complaints, where the complaints were filed, the nature of OFCCP's review of the complaints, and how those complaints figured into the determinations made during the compliance review and were alleged in the Amended Complaint.

The response also states that Oracle withheld relevant information during the compliance review. As the Interrogatory seeks information regarding OFCCP's compliance review steps, please detail OFCCP's request for the information, Oracle's response, what specific information Oracle withheld, and OFCCP's attempts to obtain that information through formal or informal means.

OFCCP also states that it intends to get relevant information regarding this Interrogatory through discovery. As the request seeks OFCCP's compliance evaluation steps, Oracle is not clear what information in Oracle's possession, custody or control would shed light on OFCCP's compliance review steps. Second, to the extent that Oracle has any information that sheds light on OFCCP's compliance review steps, OFCCP's obligation was to obtain that information during its compliance review in order to fulfill its pre-suit obligations.

Interrogatory No. 3

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. OFCCP objects to this Interrogatory on the grounds that the request for persons involved in the compliance review seeks information protected by the government informant's privilege. As alleged in the Amended Complaint, the NOV, and during conciliation, OFCCP has a purely statistical case. As such, nothing suggests that government informants exist. To the extent that the government intends to call any witnesses to bolster its statistical case, OFCCP must disclose those witnesses in response to discovery. Further, the government informant's privilege does not exist where a compelling need for the information exists. *United States v. Sanchez*, 908 F.2d 1443, 1451 (9th Cir. 1990). Here, Oracle has a compelling need for the information based on OFCCP's complete failure to provide any information regarding its compliance review and the basis of its investigatory findings. As OFCCP's own representatives are the only persons aware of the basis of the claims and have failed to provide it for more than a year, third party witnesses are the few remaining sources of information to



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understand the basis of the claims. Based on the above, please amend your responses to identify all fact witnesses involved in the compliance review.

Interrogatory No. 4

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Oracle objected on the grounds that the Interrogatory seeks information regarding the "identity of non-witness consulting experts." OFCCP claims that Fed.R.Civ.P. 26(b)(4)(D) supports its position. OFCCP's objection is baseless and must be withdrawn. Fed.R.Civ.P. 26(b)(4)(D) is inapplicable in this context, because Oracle is asking about the identity and role of individuals involved in OFCCP's compliance review, which is not governed by Fed.R.Civ.P. 26(b)(4)(D). OFCCP further objects to this Interrogatory on the grounds that it is unduly burdensome. Nothing supports a claim that seeking the identity of persons involved in the compliance evaluation, as well as the role they played, has any burden. Accordingly, OFCCP must supplement its response. And, if OFCCP continues to maintain this objection, please detail with specificity the burden associated with providing this information, including the cost and time associated with providing the information.

Interrogatory No. 5

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. OFCCP objects on the grounds that the request seeks information regarding "forthcoming expert testimony." Oracle is not seeking OFCCP's expert testimony; instead, Oracle is seeking the facts underlying OFCCP's allegation of discrimination. Oracle is not aware of any protection for facts related to future expert testimony especially where the facts are based on a far-reaching government investigation. As no basis exists for this objection, please withdraw the objection and provide all information withheld on this basis.

Turning to OFCCP's response to the Interrogatory, OFCCP fails to respond to this Interrogatory and attempts to incorporate by reference responses to Interrogatory No. 2 as well as the NOV and the Amended Complaint. As discussed above, this method of responding fails to meet the obligation to respond to interrogatories separately. Further, reference to the NOV is completely baseless because the NOV was devoid of facts regarding the discrimination allegations and OFCCP failed to adequately respond to Oracle's April 11, 2016 request for facts. Reference to the Amended Complaint, in particular, lacks any legal basis as the purpose of discovery is to obtain facts related to the pleadings.

OFCCP's response is woefully devoid of facts. OFCCP fails to provide any facts related to the models it considered, the facts it used or rejected, what the statistical results were of the model, how OFCCP weighed various factors in its model, how OFCCP grouped employees for its analysis, what



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Pay Analysis Groups the agency created, how OFCCP considered Oracle's compensation system in making its determination, whether OFCCP considered legitimate business factors in reaching its determination, what documents it used, including personnel records, interviews, and complaints OFCCP reviewed, whether OFCCP conducted interviews, and what those interviews revealed related to discrimination against females. OFCCP's cursory response fails to provide any facts in this regard.

OFCCP's response also sets forth its hope that it will obtain information during discovery to respond further to the Interrogatory request. As explained below, OFCCP either does not need additional facts because it conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.

Interrogatory No. 7

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2 and 5, Oracle incorporates the discussions of the objections to those Interrogatories here.

Turning to OFCCP's response, the Agency alleges that the violations continued to the present and "a pattern and practice of discrimination . . . is continuous in nature." OFCCP then states it has not obtained information regarding whether the alleged discrimination was based on a "change in policy" on January 1, 2014, and has not been abated. OFCCP's lack of factual support is striking given the long investigation it conducted. OFCCP is obligated to make a reasonable inquiry into its factual allegations over what it claims to be the relevant time period prior to filing this enforcement action. Otherwise, the allegations would not meet the requirements of Fed.R.Civ.P. 11. Please detail all "information" underlying the Agency's belief, including how OFCCP obtained the information, what disparities the information shows, the identity of the alleged victims, and how that information establishes that the disparities persisted throughout the entire alleged relevant time period. OFCCP blames its lack of information on its allegation that Oracle "refused to provide data relevant to 2013. . ." OFCCP must supplement its response to identify specifically Oracle's alleged refusal to provide documents, including the date each request was made, the specific nature of the request, each refusal by Oracle, what steps OFCCP took to obtain the information and how Oracle responded to OFCCP's additional steps.

Interrogatory No. 8

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its response to Interrogatory No. 7, Oracle incorporates the discussion of that objection to that Interrogatory here. OFCCP fails to answer



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Interrogatory No. 8, which seeks facts related to the Agency's allegations made on information and belief. OFCCP's incorporation of Interrogatory No. 7 fails to meet the requirements of the law as detailed above. In addition, OFCCP's attempt to incorporate its response to Interrogatory No. 7 fails to respond to Interrogatory No. 8. OFCCP's response to Interrogatory No. 7 provides no facts regarding the claims made on information and belief and, accordingly, reference to it does not respond to Interrogatory No. 8. It is notable the OFCCP admits in response to Interrogatory No. 7 that it has not obtained any facts regarding the claims made on information and belief despite its lengthy investigation and the tools available to it to obtain the relevant facts. Nonetheless, please supplement your response to provide the facts underlying the claims made on information and belief. In the alternative, please amend the Amended Complaint to withdraw those allegations for which you have no factual basis.

Interrogatory No. 9

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. OFCCP objects to this Interrogatory as burdensome. The Interrogatory seeks information related to whether OFCCP is seeking an adverse inference based on the regulations at 41 C.F.R. § 60-1.12(e). OFCCP alleged an entitlement to this inference in its NOV. Oracle presumes that OFCCP investigated this claim during its compliance review or OFCCP would not have asserted it. As such, Oracle is at a loss as to how responding to this Interrogatory is burdensome. Notwithstanding OFCCP's obligation to investigate matters fully and whether the Agency has met that obligation, please detail with specificity the burden associated with providing this information, including the cost and time associated with providing the information.

OFCCP also objects to this Interrogatory on the grounds that "Oracle, not OFCCP, is in a better position to know whether it has met its obligations related to the preservation of evidence." This objection is baseless. OFCCP's obligation is to provide facts in its possession, custody or control in response to the Interrogatory. It has conducted a lengthy investigation and presumably gathered facts underlying its allegations that Oracle destroyed or failed to preserve records. Whether Oracle has better knowledge or not makes no difference as the obligation falls on OFCCP to reveal the basis of the allegations in the NOV, which formed the basis of the Amended Complaint. Please withdraw this objection and supplement your response to provide all information withheld on the basis of this objection.

OFCCP's response also sets forth its hope that it will obtain information during discovery to respond further to the Interrogatory request. As explained below, OFCCP either does not need additional facts because it conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.



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Interrogatory No. 10

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2 and 5, Oracle incorporates the discussions of the objections to those Interrogatories here. OFCCP objects to this Interrogatory on the grounds that providing information that Oracle discriminated against qualified females is burdensome. As noted above, OFCCP conducted a lengthy investigation and should have the facts readily available. Therefore, no burden exists. Notwithstanding OFCCP's obligation to investigate matters fully and whether the Agency has met that obligation, please detail with specificity the burden associated with providing this information, including the cost and time associated with providing the information.

OFCCP failed to respond to this Interrogatory and attempts to incorporate by reference responses to Interrogatory Nos. 2 and 5. As explained above, this fails to meet the obligations to respond to interrogatories separately. Even if OFCCP's references to the other interrogatories were appropriate, its reliance on its responses in Interrogatory Nos. 2 and 5 fail to respond adequately to Interrogatory No. 10. Interrogatory No. 2 requests facts related to the compliance review steps and Interrogatory No. 5 requests facts related to the basis of OFCCP's allegations that Oracle discriminated against females. Interrogatory No. 10 makes a different request; it seeks information OFCCP "considered." These are the facts that OFCCP has in its possession, custody or control that may not have formed the basis of the allegation in the Amended Complaint. Please supplement your response to provide a full response detailing the information OFCCP has in its possession and what it considered in making its determination that Oracle discriminated against females regardless of whether it formed the basis of that allegation.

Interrogatory No 11

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. OFCCP objects to this request on the basis that it is burdensome. The request seeks information related to class members for whom Oracle has sought a remedy. This basic information presumably was collected by Oracle during its lengthy compliance review. Nothing suggests that providing it would be burdensome. Notwithstanding OFCCP's obligation to investigate matters fully and whether the Agency has met that obligation, please detail with specificity the burden associated with identifying the alleged female class members, including the cost and time associated with providing the information.

OFCCP's response also sets forth its hope that it will obtain information during discovery to respond further to the Interrogatory request. As explained below, OFCCP either does not need



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additional facts because it conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.

Interrogatory No. 12

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2 and 5, Oracle incorporates the discussions of the objections to those Interrogatories here.

OFCCP provides no substantive response to the Interrogatory but inappropriately attempts to incorporate its responses to Interrogatory Nos. 2 and 5. Also, the Agency's reference to Interrogatory Nos. 2 and 5 fails because OFCCP provides no facts in response to either of these Interrogatories regarding whether the females alleged to be victims were qualified. Rather, OFCCP responds by admitting that it does not have facts supporting this allegation.

OFCCP's response also sets forth its hope that it will obtain information during discovery to respond further to the Interrogatory request. As explained above, OFCCP either does not need additional facts because it conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.

Interrogatory No. 13

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2 and 5, Oracle incorporates the discussions of the objections to those Interrogatories here.

OFCCP objects to this Interrogatory on the grounds that it is burdensome. As noted above, OFCCP conducted a lengthy investigation and should have the facts readily available. Therefore, no burden exists for OFCCP to identify who it has determined to be comparable males who made more than females. Notwithstanding OFCCP's obligation to investigate matters fully and whether the Agency has met that obligation, please detail with specificity the burden associated with providing data identifying comparable men, including the cost and time associated with providing the information.

OFCCP has not responded to this Interrogatory fully. OFCCP's reference to Interrogatory Nos. 2 and 5 is legally insufficient and fails to respond to the instant Interrogatory because neither of OFCCP's responses details or identifies the comparable males who allegedly made more than females. OFCCP's response notes that it anticipates adding more comparators based on Oracle's production during discovery. As explained above, OFCCP either does not need additional facts



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because it conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.

Interrogatory No. 14

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2, 5, and 13, Oracle incorporates the discussions of the objections to those Interrogatories here. OFCCP objects to this Interrogatory on the grounds that it is burdensome. As noted above, OFCCP conducted a lengthy investigation and should have the facts readily available. Therefore, no burden exists for OFCCP to state how it made the determination as to whether comparable males made more than the female class members. Notwithstanding OFCCP's obligation to investigate matters fully and whether the Agency has met that obligation, please detail with specificity the burden associated with providing facts related to the Agency's determination that comparable males made more, including the cost and time associated with providing the information.

OFCCP provides no substantive response to this Interrogatory. The Interrogatory seeks facts regarding how OFCCP made the determination that comparable males were paid more than similarly situated females. The Agency's reference to other interrogatories is legally deficient. Further, reference to Interrogatory No. 2 fails to respond to the instant Interrogatory because neither detail OFCCP's determination that males and females were in comparable positions. In addition, reference to Interrogatory No. 13 is similarly legally deficient and does not respond to the instant Interrogatory because Interrogatory No. 13 sought the *identity* of comparable males and does not request facts regarding how OFCCP made that determination. Rather than responding to the Interrogatory, OFCCP states that it hopes to obtain additional information during discovery in order to respond. OFCCP's Directive 307 makes clear that its analytical model must determine who is similarly situated. Directive 307, p. 12 (February 28, 2013). To comply with its pre-suit obligations, the Agency must have facts as to males who were similarly situated. As explained above, OFCCP either does not need additional facts because it conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.

Interrogatory No. 15

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2, 5, and 13, Oracle incorporates the discussions of the objections to those Interrogatories here.



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OFCCP has not responded to this Interrogatory fully. The Interrogatory seeks facts regarding how OFCCP made the determination that the females and males were in similar roles as alleged in Paragraph 7 of the Amended Complaint. The Agency's reference to other interrogatories is legally deficient. In addition, OFCCP's reference to Interrogatory Nos. 2 and 5 fails to respond to the instant Interrogatory because neither detail OFCCP's determination that the alleged underpaid females were in similar roles to comparable males. In addition, reference to Interrogatory No. 12 misses the mark because OFCCP did not provide any facts in response to Interrogatory No. 12. Likewise, incorporating the Agency's response to Interrogatory No. 13 does not respond to the instant Interrogatory because Interrogatory No. 13 sought the *identity* of comparable males and does not request facts or the factors used in determining that the alleged underpaid women were in similar roles to men.

In contrast to many of OFCCP's Interrogatory responses, OFCCP attempts to provide some information. The Agency states that it determined that roles were similar by "reviewing evidence gathered during the compliance evaluation." By noting that it considered evidence obtained during the compliance review, OFCCP purports that it has at least some facts to support its allegations. However, it has woefully failed to provide them in response to this Interrogatory. The Agency provides no information including, but not limited to, what steps it took to determine that roles were similar, detail what facts and factors governed that determination, who was involved in that determination, when it made the determination, and whether it considered information provided by Oracle regarding similar roles and other important information necessary to respond to the Interrogatory fully. Please supplement this response to detail all facts regarding how you determined that roles were "similar" as alleged in your Amended Complaint.

OFCCP's response also sets forth its hope that it will obtain information during discovery to respond further to the Interrogatory request. As explained below, OFCCP either does not need additional facts because it conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.

Interrogatory No. 16

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2, 5, and 13, Oracle incorporates the discussions of the objections to those Interrogatories here.

OFCCP has failed to provide any facts in response to this Interrogatory. The Interrogatory seeks facts regarding OFCCP's statistical controls underlying its finding that Oracle discriminated against women. OFCCP's reference to other interrogatories is legally insufficient. Further, its citation to Interrogatory Nos. 2 and 5 fails to respond to the instant Interrogatory because neither detail the



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facts or factors underlying OFCCP's alleged statistical controls. In addition, reference to Interrogatory No. 12 does not respond to the instant Interrogatory because Interrogatory No. 12 sought information regarding whether the alleged class members were qualified. Similarly, reference to Interrogatory No. 13 does not respond to the instant Interrogatory because it seeks information regarding the identity of comparable males. The instant Interrogatory seeks information regarding OFCCP's alleged use of controls for various factors in determining that Oracle discriminated against women as alleged in Paragraph 7 of the Amended Complaint. Please supplement the Interrogatory response to provide all facts regarding the factors listed in Interrogatory No. 16.

Interrogatory No. 17

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2, 5, 12, and 13, Oracle incorporates the discussions of the objections to those Interrogatories here.

OFCCP has failed to meet its obligation to provide facts fully responding to this Interrogatory. The Interrogatory clearly requested detailed information regarding the identity of the statistical data, the analysis and methodologies OFCCP used, the specific computations, and the identities of the female information technology employees. OFCCP's response provides conclusory information that it "evaluated and analyzed Oracle's compensation information and found statistically significant pay disparities." This wholly fails to provide any of the detail requested of the Interrogatory. Please supplement your response to provide all facts regarding OFCCP's statistical analysis.

OFCCP's response also sets forth its hope that it will obtain information during discovery to respond further to the Interrogatory request. As explained below, OFCCP either does not need additional facts because it conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.

Interrogatory Nos. 18 and 19

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2, 5, 12, and 13, Oracle incorporates the discussions of the objections to those Interrogatories here.

OFCCP's response to Interrogatory Nos. 18 and 19 mirrors its response to Interrogatory No. 17 and, on that basis, suffers from the same lack of specificity. As such, for the reasons discussed above, please supplement your responses to answer these Interrogatories fully. OFCCP's response also sets forth its hope that it will obtain information during discovery to respond further to the Interrogatory request. As explained below, OFCCP either does not need additional facts because it



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conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.

Interrogatory No. 20

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory No. 2, Oracle incorporates the discussions of the objections to that Interrogatory here.

Turning to OFCCP's response to the Interrogatory, it is legally insufficient by attempting to incorporate Interrogatory No. 2. Further, it is woefully devoid of facts. OFCCP fails to provide any facts related to the models it considered, the facts it used or rejected, what the statistical results were of the model, how OFCCP weighed various factors in its model, how OFCCP grouped employees for its analysis, what Pay Analysis Groups the agency created, how OFCCP considered Oracle's compensation system in making its determination, whether OFCCP considered legitimate business factors in reaching its determination, what documents it used, including personnel records, interviews, and complaints OFCCP reviewed, whether OFCCP conducted interviews, and what those interviews revealed related to discrimination against African-Americans. OFCCP's cursory response fails to provide any facts in this regard.

OFCCP's response also sets forth its hope that it will obtain information during discovery to respond further to the Interrogatory request. As explained below, OFCCP either does not need additional facts because it conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.

Interrogatory No. 22

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2 and 20, Oracle incorporates the discussions of the objections to those Interrogatories here.

Turning to OFCCP's response, the Agency alleges that the violations continued to the present and "a pattern and practice of discrimination . . . is continuous in nature." OFCCP then states that it has not obtained information regarding whether the alleged discrimination was based on a "change in policy" on January 1, 2014, and has not been abated. OFCCP's lack of factual support is striking given the long investigation it conducted. OFCCP is obligated to make a reasonable inquiry into its factual allegations over what it claims to be the relevant time period prior to filing this enforcement action. Otherwise, the allegations would not meet the requirements of Fed.R.Civ.P. 11. Please detail all "information" underlying the Agency's belief, including how OFCCP obtained the



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information, what disparities the information shows, the identity of the alleged victims and how that information establishes that the disparities persisted throughout the entire alleged relevant time period. OFCCP blames its lack of information on its allegation that Oracle "refused to provide data relevant to 2013. . ." Please detail all facts regarding OFCCP's alleged refusal to provide documents, including the date each request was made, the specific nature of the request, each refusal by Oracle, what steps OFCCP took to obtain the information, and how Oracle responded to OFCCP's additional steps.

Interrogatory No. 23

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory No. 22, Oracle incorporates the discussions of the objections to that Interrogatory here.

OFCCP responds to Interrogatory No. 23 by merely referring to Interrogatory No. 22. This response is legally and factually inadequate. Interrogatory No. 23 requests information regarding the *facts* underlying the *claims* alleged in Interrogatory No. 22. As OFCCP failed to provide any facts in response to Interrogatory No. 22, it must do so here. Please respond fully to Interrogatory No. 23 by providing facts underlying the allegations stated on information and belief.

Interrogatory No. 24

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Further, as OFCCP attempts (improperly) to incorporate its responses to Interrogatory Nos. 2 and 20, Oracle incorporates the discussions of the objections to that Interrogatory here.

OFCCP objects on the grounds the request seeks information regarding "forthcoming expert testimony." Oracle is not aware of any protection for facts related to future expert testimony especially where the facts are based on a far-reaching government investigation. As no basis exists for this objection, please withdraw the objection and provide all information withheld on this basis.

OFCCP failed to respond to this Interrogatory and attempts to incorporate by reference responses to Interrogatory Nos. 2 and 20. OFCCP's reliance on its responses in Interrogatory Nos. 2 and 20 is legally insufficient and fails to respond adequately to Interrogatory No. 24. Interrogatory No. 2 requested facts related to the compliance review and Interrogatory No. 20 requested facts related to the "basis" of OFCCP's allegations that Oracle discriminated against African-Americans. Interrogatory No. 24 makes a different request; it seeks information OFCCP "considered." These are the facts that OFCCP has in its possession that may have formed the basis of the allegation in the Amended Complaint that Oracle discriminated against African-Americans. Please supplement



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your response to provide a full response detailing the information OFCCP has in its possession, custody or control and what it considered in making its determination that Oracle discriminated against African-Americans regardless of whether it formed the basis of that allegation.

Interrogatory No. 25

Oracle incorporates by reference its discussion of the form objections cited by OFCCP. Oracle further objects that the request is burdensome. The request seeks information related to class members for whom Oracle has sought a remedy. This basic information presumably was collected by OFCCP during its lengthy compliance review. Nothing suggests that providing it would be burdensome. Notwithstanding OFCCP's obligation to investigate matters fully and whether the Agency has met that obligation, please detail with specificity the burden associated with providing this information, including the cost and time associated within providing the information.

OFCCP's response also sets forth its hope that it will obtain information during discovery to respond further to the Interrogatory request. As explained below, OFCCP either does not need additional facts because it conducted a complete investigation or it has no facts and must withdraw allegations from the Amended Complaint that are not based on facts it developed.

* * *

Based on the above, we request that you provide supplemental responses to the Interrogatories by no later than April 7, 2017. If we do not receive supplemental responses by then, Oracle will bring a motion to compel seeking further responses.

Very truly yours,

A handwritten signature in cursive script that reads "Erin M. Connell".

Erin M. Connell

cc: Gary R. Siniscalco